

IC 16-28

ARTICLE 28. HEALTH FACILITIES

IC 16-28-1

Chapter 1. Health Facilities Council

IC 16-28-1-1

Members; appointment; conflicts of interest

Sec. 1. (a) The Indiana health facilities council is created. The council consists of fourteen (14) members as follows:

- (1) One (1) licensed physician.
- (2) Two (2) administrators, licensed under IC 25-19-1, of a proprietary health facility licensed under this article.
- (3) One (1) administrator, licensed under IC 25-19-1, of a nonproprietary health facility licensed under this article.
- (4) One (1) registered nurse licensed under IC 25-23.
- (5) One (1) registered pharmacist licensed under IC 25-26.
- (6) Two (2) citizens having knowledge or experience in the field of gerontology.
- (7) One (1) representative of a statewide senior citizens organization.
- (8) One (1) citizen having knowledge or experience in the field of mental health.
- (9) One (1) nurse-educator of a practical nurse program.
- (10) The commissioner.
- (11) The director of the division of family and children or the director's designee.
- (12) The director of the division of disability, aging, and rehabilitative services or the director's designee.

(b) The members of the council designated by subsection (a)(1) through (a)(9) shall be appointed by the governor.

(c) Except for the members of the council designated by subsection (a)(10) through (a)(12), all appointments are for four (4) years. If a vacancy occurs, the appointee serves for the remainder of the unexpired term. A vacancy is filled from the same group that was represented by the outgoing member.

(d) Except for the members of the council designated by subsection (a)(2) through (a)(3), a member of the council may not have a pecuniary interest in the operation of or provide professional services through employment or under contract to a facility licensed under this article.

As added by P.L.2-1993, SEC.11. Amended by P.L.4-1993, SEC.230; P.L.5-1993, SEC.243.

IC 16-28-1-2

Chairman and vice chairman

Sec. 2. Each year the council shall elect from among council members a chairman and vice chairman.

As added by P.L.2-1993, SEC.11.

IC 16-28-1-3

Secretary

Sec. 3. The director serves as secretary to the council.

As added by P.L.2-1993, SEC.11.

IC 16-28-1-4

Meetings; special meetings

Sec. 4. (a) The council shall meet at least six (6) times a year.

(b) Special meetings of the council shall be called by the secretary upon the written request of four (4) members of the council.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.2.

IC 16-28-1-5

Quorum; deliberation procedures

Sec. 5. (a) Eight (8) members of the council constitute a quorum for the transaction of all business of the council.

(b) The council shall establish procedures to govern the council's deliberations.

As added by P.L.2-1993, SEC.11.

IC 16-28-1-6

Information to be furnished by director

Sec. 6. The director shall furnish to the council at each meeting information concerning the status of the following:

(1) Licenses and waivers issued or contested under the following:

(A) IC 16-28-2.

(B) IC 16-28-3.

(C) IC 16-29.

(D) IC 16-30.

(2) Monitors placed under IC 16-28-7.

(3) Receiverships imposed under IC 16-28-8.

As added by P.L.2-1993, SEC.11.

IC 16-28-1-7

Adoption and recommendation of rules; classification of facilities; encouragement of program development; action as advisory body

Sec. 7. The council shall do the following:

(1) Propose the adoption of rules by the department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.

(B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.

(C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.

(D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.

(E) Levels of medical staffing and medical services in

cooperation with the office of Medicaid policy and planning, division of family and children, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

(4) Encourage the development of social and habilitative programs in health facilities, as recommended by the community residential facilities council.

(5) Act as an advisory body for the division, commissioner, and state department.

(6) Adopt rules under IC 4-22-2, as provided in IC 16-29-1-13.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.3.

IC 16-28-1-8

Issuance of interpretive guidelines; approval of administrative law judges; requesting appointments of receivers; reference of complaints

Sec. 8. The council may do the following:

(1) Issue interpretive guidelines when necessary to assist a health facility in meeting the requirements of a rule. An interpretive guideline is not a rule for the purposes of this chapter or IC 4-22-2 and may not be used to contravene a rule.

(2) Approve a list of administrative law judges to conduct hearings under IC 16-28-10-1.

(3) Request the attorney general to seek the appointment of a receiver for a health facility as authorized under IC 16-28-8.

(4) Refer complaints received about licensed personnel at health facilities to the appropriate licensing board as described in IC 16-28-4.

As added by P.L.2-1993, SEC.11.

IC 16-28-1-9

Waiver of rules by council

Sec. 9. The council may not waive a rule adopted under this chapter.

As added by P.L.2-1993, SEC.11.

IC 16-28-1-10

Waiver of rules by executive board

Sec. 10. (a) Except as specifically provided, the executive board may, upon recommendation by the commissioner and for good cause shown, waive for a specified time any rule that may be waived under the following for a health facility:

(1) This article.

(2) IC 16-29.

(3) IC 16-30.

(b) Disapproval of a waiver request requires executive board action. However, the granting of a waiver may not adversely affect

the health, safety, and welfare of the patients or residents.
As added by P.L.2-1993, SEC.11.

IC 16-28-1-11

Qualified medication aides; certification

Sec. 11. (a) Unless an individual is certified under this section:

- (1) the individual may not practice as a qualified medication aide; and
- (2) a facility may not employ the individual as a qualified medication aide.

(b) The council shall do the following:

- (1) Establish a program for the certification of qualified medication aides who work in facilities licensed under this article.
- (2) Prescribe education and training programs for qualified medication aides, including course and inservice requirements. The training program must include a competency test that the individual must pass before being granted an initial certification.
- (3) Determine the standards concerning the functions that may be performed by a qualified medication aide.
- (4) Establish annual certification fees for qualified medication aides.
- (5) Adopt rules under IC 4-22-2 necessary to implement and enforce this section.

(c) The department shall maintain a registry of each individual who is certified as a qualified medication aide.

(d) The department may conduct hearings for violations of this section under IC 4-21.5.

As added by P.L.2-1993, SEC.11. Amended by P.L.24-2002, SEC.1.

IC 16-28-1-12

Proposal and adoption of rules

Sec. 12. (a) The department may request the council to propose a new rule or an amendment to a rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule not more than ninety (90) days after the department's request, the department may propose its own rule.

(b) The executive board shall consider rules proposed by the council under this section and section 1 of this chapter. The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

(c) To become effective, all rules adopted under this chapter must be adopted by the executive board in accordance with IC 4-22-2. The rules adopted under this chapter are the only rules governing the licensing and operation of health facilities.

As added by P.L.2-1993, SEC.11. Amended by P.L.179-1993, SEC.4.

IC 16-28-1-13

Licensure inspections; reports

Sec. 13. (a) Licensure inspections of health facilities shall be made regularly in accordance with rules adopted under this chapter. The division shall make all health and sanitation inspections. The office of the state fire marshal or the fire marshal's authorized agents shall make all fire safety inspections. The council or the director may provide for other inspections necessary to carry out this chapter.

(b) The exact date of an inspection of a health facility under this chapter may not be announced or communicated directly or indirectly to the owner, administrator, or an employee of the facility before the inspection. An employee of the state department who knowingly or intentionally informs a health facility of the exact date of an inspection shall be suspended without pay for five (5) days for a first offense and shall be dismissed for a subsequent offense.

(c) Reports of all inspections must be:

- (1) in writing; and
- (2) sent to the health facility.

(d) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

As added by P.L.2-1993, SEC.11. Amended by P.L.190-1995, SEC.5.

IC 16-28-1-14

Provision of licensure inspection report copies and summaries; maintenance and inspection of reports

Sec. 14. (a) The division shall provide, on the request of any person and payment of a fee to cover the direct and indirect costs of complying with the request:

- (1) a copy of a report of an inspection from the public file of a health facility;
- (2) a brief descriptive summary of the annual survey report of a health facility; or
- (3) both.

(b) Reports of all inspections under this chapter shall be maintained by each health facility for two (2) years and shall be made available for inspection by any member of the public upon request.

As added by P.L.2-1993, SEC.11.